

1 THE HONORABLE MARSHA J. PECHMAN

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3  
4 UNITED STATES DISTRICT COURT  
5 WESTERN DISTRICT OF WASHINGTON  
6 AT SEATTLE

7 CLAUDE A. REESE, Individually and on  
8 Behalf of All Others Similarly Situated,

9 Plaintiff,

10 v.

11 JOHN BROWNE and ROBERT MALONE,

12 Defendants.

) Case No. C08-1008 MJP

)  
) **STIPULATION AND ORDER**  
) **REGARDING SEALED AMENDED**  
) **COMPLAINT**

) Note on Motion Calendar: July 10, 2009

13 **STIPULATION**

14 WHEREAS, on April 3, 2009, the parties filed a proposed Stipulation and Order in which  
15 Defendants consented to the filing of Lead Plaintiffs' Amended Complaint;

16 WHEREAS, a copy of the proposed Amended Complaint was attached to the proposed  
17 Stipulation indicating that it was to be filed under seal, and the Stipulation itself (with exhibits)  
18 was filed under seal;

19 WHEREAS, on April 8, the Court entered the parties' proposed Stipulation and Order,  
20 granting leave for Lead Plaintiffs to amend;

21 WHEREAS, since that time, the Amended Complaint has remained under seal;

22 WHEREAS, on June 5, 2009, Lead Plaintiffs sent Defendants a letter stating that  
23 Defendants "have not complied with the Protective Order," which "required [them] to file a  
24 motion within seven judicial days after Plaintiffs' filing of the Amended Complaint on April 3,  
25 2009 for an order allowing the Amended Complaint to remain under seal";  
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1 WHEREAS, on June 22, 2009, Defendants filed a Motion to Perpetuate Seal "[i]n order  
2 to address Lead Plaintiffs' contention and resolve any doubt as to the status of the Amended  
3 Complaint under seal";

4 WHEREAS, in support of that motion, Defendants filed the Declaration of Brad McKim  
5 under seal pursuant to CR 5(g)(3), which permits filing of sealed declarations in support of a  
6 motion to seal;

7 WHEREAS, on July 6, 2009, Lead Plaintiffs filed an Opposition to Defendants' Motion to  
8 Perpetuate Seal;

9 WHEREAS, Lead Plaintiffs filed their Opposition and supporting Declaration of Javier  
10 Blechmar under seal;

11 IT IS HEREBY STIPULATED AND AGREED THAT:

12 (1) Defendants withdraw their June 22 Motion to Perpetuate Seal; (2) The parties agree to  
13 unseal the Amended Complaint; (3) The parties agree that unsealing the Amended Complaint is  
14 not a waiver of rights with respect to unquoted material in those documents from which Lead  
15 Plaintiffs quote or otherwise reference in the Amended Complaint; (4) The Parties agree that Lead  
16 Plaintiffs' Opposition may be unsealed, but that the Declarations of Brad McKim and Javier  
17 Bleichmar should remain sealed under CR 5(g)(3), also without a waiver of rights; and (5) The  
18 Parties agree that in the event that the Court declines to permit the McKim and Bleichmar  
19 declarations to remain under seal, the parties will withdraw those documents pursuant to CR  
20 5(g)(5).

21 Dated this 10th day of July, 2009

22 GRAHAM & DUNN PC

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*Attorneys for Lead Plaintiffs*

\* \* \*

1 PURSUANT TO STIPULATION, THE COURT ORDERS:

2 1) Defendants' June 22, 2009 Motion to Perpetuate Seal is withdrawn;

3 2) The Amended Complaint will be unsealed;

4 3) Unsealing the Amended Complaint is not a waiver of any party's rights with respect to  
5 unquoted material in those documents from which Lead Plaintiffs quote or otherwise reference in  
6 the Amended Complaint;

7 4) Plaintiffs' Opposition shall be unsealed;

8 5) The Declarations of Brad McKim and Javier Bleichmar, having been submitted under  
9 CR 5(g)(3), shall remain sealed.

10 SO ORDERED.

11 Dated July \_13\_, 2009

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13 Marsha J. Pechman  
14 United States District Judge  
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**CERTIFICATE OF SERVICE**

I hereby certify that on July 10, 2009, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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